

ATTACHMENT B

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GOOGLE INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION
13

14 IN RE: HIGH-TECH EMPLOYEE
15 ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

16 THIS DOCUMENT RELATES TO:
17
18 ALL ACTIONS
19

**DECLARATION OF STEVEN M.
PERRY IN SUPPORT OF
DEFENDANTS' SUPPLEMENTAL
BRIEF IN CONNECTION WITH
PLAINTIFFS' MOTION FOR
APPLICATION OF THE PER SE
STANDARD**

Judge: Hon. Lucy H. Koh
Date: December 19, 2014
Time: 1:30 p.m.
Ctrm: 8

1 I, STEVEN M. PERRY, hereby declare and say:

2 1. I am a member of Munger, Tolles & Olson LLP, counsel of record for Intel
3 Corporation (“Intel”) in this case. I am admitted to practice before this Court. I make this
4 declaration in support of Defendants’ Supplemental Brief in Connection with Plaintiffs’
5 Motion for Application of the Per Se Standard. I have personal knowledge of the matters
6 set forth herein and could and would testify competently to each of them.

7 2. I submit this declaration in order to place before the Court a true copy of
8 exhibit 454 to Paul Otellini’s deposition in this matter. We had included Mr. Otellini’s
9 deposition testimony about exhibit 454 as part of exhibit I to the Corrected Declaration of
10 Steven M. Perry in Support of Intel Corporation’s Motion for Summary Judgment
11 (Dkt 690-1 at 130-131 and 140-141), but had neglected to include a copy of the exhibit
12 itself. It is attached as exhibit A. I have also included, for the Court’s convenience,
13 another copy of the deposition testimony regarding exhibit 454 that was included in my
14 previous declaration as part of exhibit I.

15 I declare under penalty of perjury under the laws of the United States that the
16 foregoing is true and correct.

17 Executed this 16th day of September, 2014 at Los Angeles, California.

18
19 /s/ Steven M. Perry

20 Steven M. Perry
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EXHIBIT A

From: Otellini
To: Eric Schmidt
Sent: 6/3/2007 6:20:00 PM
Subject: FW: Nuts!!!! google hired away one of my good guys.....after we helped him with Site Selection info

Eric, pls see below and do not forward within Goog...Seems unkind to hire our guy after we helped you out by teaching you how we did site selection... my team is pretty teed off.
 paul

From: Leising, Bruce
Sent: Tuesday, May 29, 2007 9:00 AM
To: Baker, Bob
Subject: FW: GSSD Organizational Announcement

FYI, as background. At Paul's request, we did a presentation to Google on our site selection methods. They have now gone and hired our lead guy on it out of CRESO.
 Bruce

From: Das, Sunil K
Sent: Tuesday, May 29, 2007 9:57 AM
To: Leising, Bruce; Haig, Ted V
Subject: FW: GSSD Organizational Announcement

FYI - Leong will be joining Google.
 During our presentation on Intel's SS program to Google in Jan, their VP was impressed and asked where he could hire folks like we have on the team. I wonder if that meeting motivated them to go after our lead guy.

Sunil

From: Trendler, Blain T
Sent: Tuesday, May 29, 2007 5:59 AM
To: Balcom, Rick; Barshaf, Sharon; Brand, Virginia F; Cheng, Allen; Das, Sunil K; Gal, Avidan; Griffin, Patrick G; Gross, Moshe; Groves, Tim; Hart, Esther; Hernandez, Tomas Corp Services; Jacobs, Wallace H; Jaganathan, Swamalatha; Johnson, Nathan K; Jones, Lee; Kai, David; Kavanagh, Jim N; Kimura, David; Legault, Ray; Lewis, April Z; Liong, Chiew Woei; Loo, Chee Kean; Martin, Jennifer M; McOmber, Matthew J; Moretti, Jack J; Narang, Sanjay R; Nyland, Richard; O'Dwyer, Martin; O'Neill, Ella; Poh, Leong Chin; Reeder, Charles E; Romano, Marcelo A; Spatz, Michael T; Stecker, Robert; Stobetsky, Valentin; Trendler, Blain T; Wheeler, Jeff M; Wong, Jennifer
Cc: Jefferson, Kirby; Schijf, Alan; Levy, Haim; Tan, Wee Theng; Moser, Wangli; Yang, Jeffrey; Palmintere, Nanci S; Martin, Robin; Than, Phu T; Feigelson, Leroy N; Stout, Art A; Ge, Jun; Slater, Greg S; Wong, Hong Eie; Chuah, Cheng Leong; Howarth, Rick A; Wong, Hong Eie; Dean, Murray K
Subject: GSSD Organizational Announcement

It is with mixed emotions that I announce Leong Chin Poh's decision to leave Intel for another opportunity. Leong's last work day, prior to taking his vacation, will be June 15, 2007. His final day will be July 1, 2007.

Leong began his Intel career in 1997 and has been a great asset to Global Site Selection and Development (GSSD) for the last 5 years. He has managed the due diligence team on several projects including A7 in Chengdu, R & D Campuses in Shanghai (Zizhu) and Korea, A9 in Vietnam and most recently Fab 68 in Dalian.

Please join me in thanking Leong for his years of dedication at Intel and wishing him the very best in the future.

Organizational changes to continue to support Intel's site due diligence program will be made in the coming weeks.

Thank you,
 Blain Trendler

EXHIBIT 454
 Deponent Otellini
 Date 1.29.13
 Gina V. Carbone, CSR

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
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6 IN RE: HIGH-TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11-CV-2509-LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
12
13

14 CONFIDENTIAL - ATTORNEYS' EYES ONLY
15 VIDEO DEPOSITION OF PAUL OTELLINI
16 January 29, 2013
17
18

19 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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10:53:21 1 the person who ran our corporate services site selection
10:53:29 2 process.

10:53:30 3 Q. And who was that second person?

10:53:31 4 A. I don't remember his name at the time.

10:53:33 5 Q. Was it a man or a woman?

10:53:34 6 A. A man.

10:53:41 7 Q. And Renee James is a woman, correct?

10:53:45 8 A. Yes.

10:53:46 9 Q. And when Ms. James informed you of that
10:53:49 10 incident, did you contact Mr. Schmidt to tell him about
10:53:53 11 that?

10:53:53 12 A. I think I sent him an email.

10:53:55 13 Q. And why did you send him the email?

10:53:59 14 A. Because I wanted to remind him that it was --
10:54:01 15 that he was recruiting people that were working on these
10:54:04 16 joint projects and this was -- this was, I thought, not
10:54:08 17 in the spirit of our agreement.

10:54:10 18 Q. Is it fair to say that when you -- when you
10:54:12 19 contacted him or wrote him the email, you wanted
10:54:15 20 Mr. Schmidt to stop it?

10:54:17 21 A. Yeah. I would prefer he didn't do that. Live
10:54:20 22 up to what he said, yes.

10:54:22 23 Q. Okay. And I'm sorry, the second incident that
10:54:32 24 you described, the person was a manager of -- I didn't
10:54:36 25 get the name of the -- the organization.

10:54:38 1 A. It was -- we have an organization called
10:54:40 2 corporate services, which has all of our construction
10:54:43 3 and land and construction activities, site selection,
10:54:50 4 et cetera.

10:54:52 5 And the background for that was that Google was
10:54:56 6 in the midst of a large physical expansion of their
10:55:01 7 sites for data centers and R&D, and they wanted to know
10:55:06 8 Intel practices. So I offered to send over the person
10:55:09 9 who did that for Intel. Was a very experienced
10:55:14 10 engineer. And we told them how we went about selecting
10:55:17 11 and growing sites. And they liked that person so much
10:55:26 12 they recruited him, which I didn't think was terribly
10:55:29 13 fair and kind.

10:55:29 14 Q. And you contacted Mr. Schmidt to express that;
10:55:31 15 is that fair?

10:55:32 16 A. Yes, I did.

10:55:33 17 Q. And again, when you did that, you wanted
10:55:37 18 Mr. Schmidt to stop it?

10:55:39 19 A. I wanted him to not disrupt kind of the joint
10:55:45 20 efforts. What would be my incentive to help Google if
10:55:49 21 when I send people over there they recruit our best
10:55:51 22 people.

10:55:52 23 Q. So other than those two incidents, can you
10:55:54 24 recall any other incident where you learned that Google
10:55:58 25 wasn't living up to its agreement with you?

01:16:39 1 MR. SAVERI: Thank you. You can put that
01:16:40 2 aside.

01:16:42 3 (Whereupon, Exhibit 454 was marked for
01:16:42 4 identification.)

01:17:10 5 MR. SAVERI: Q. Mr. Otellini, I've handed
01:17:12 6 you what's been marked as Exhibit 454. It has the
01:17:15 7 Bates No. 76616DOC003892.

01:17:22 8 Do you have that in front of you?

01:17:23 9 A. Yes, I do.

01:17:26 10 Q. Do you recognize this document?

01:17:27 11 A. I do.

01:17:28 12 Q. Could you tell me what it is, please.

01:17:31 13 A. It's a chain of emails that starts out with an
01:17:35 14 organization announcement of an employee leaving. The
01:17:38 15 next part of the chain is one of the managers of that
01:17:42 16 organization sending me a note saying that the leaving
01:17:45 17 employee is joining Google, and pointing out that the --
01:17:50 18 his belief is that the -- it was a direct result of
01:17:56 19 Intel helping Google by presenting to them how we do our
01:18:01 20 site selection program that enticed them to take the
01:18:04 21 guy.

01:18:05 22 And then, you know, the email goes on to say
01:18:08 23 this was part of the request, and it ends with me
01:18:11 24 sending it to -- a note to Eric at Google saying it
01:18:15 25 seems unkind to hire the guy that we sent to help you.

01:18:19 1 Q. Now, did you write -- just focusing on the top
01:18:23 2 of the email, did you write the email to Mr. Schmidt on
01:18:26 3 or about the date that's indicated there?

01:18:28 4 A. Yes.

01:18:29 5 Q. July (sic) 3rd, 2007.

01:18:30 6 A. I did.

01:18:31 7 Q. Now, is this the incident regarding the site
01:18:37 8 selection person that you discussed with me a little bit
01:18:40 9 earlier today?

01:18:40 10 A. Yes, it is.

01:18:59 11 Q. Now, you write, "Eric, please see below and do
01:19:03 12 not forward within Goog."

01:19:05 13 Do you see that?

01:19:05 14 A. Yes.

01:19:06 15 Q. Why didn't you want Mr. Schmidt to forward this
01:19:09 16 message within Google?

01:19:10 17 A. Because I didn't want to make a federal case of
01:19:12 18 it. I just thought it was terribly unkind. They asked
01:19:16 19 us to help them, we sent a guy over there who was our
01:19:20 20 best guy, showed them how we're doing it. He's a
01:19:23 21 tenured employee, valued employee, and they hired him
01:19:26 22 away. I didn't think it was the best way to get me to
01:19:29 23 want to help them anymore.

01:19:33 24 Q. Again, this communication occurred after your
01:19:37 25 original communication with Mr. Schmidt --